

MEMORANDUM

TO: Human Resources Directors

FROM: Karen L. Wingo

DATE: Jan. 11, 2021

SUBJECT: Families First Coronavirus Response Act (FFCRA) Expiration

As you were advised in a memo dated Dec. 29, 2020, both paid leave provisions related to the Families First Coronavirus Response Act (FFCRA) expired on Dec. 31, 2020. Since that memo was issued, there has been some confusion about whether the state or individual state agencies can voluntarily continue to offer leave consistent with the leave provided by the FFCRA.

As you may be aware the coronavirus relief bill passed in late December 2020, included a provision which extended the tax credits available to private companies who voluntarily elected to continue to provide leave as described in the FFCRA through March 31, 2021. Several news articles and guidance issued by various law firms have also indicated that public employers may voluntarily continue to provide leave under the FFCRA.

The Division of State Human Resources has reviewed the applicable provisions of the coronavirus relief bill and has determined that state agencies cannot voluntarily extend the FFCRA. The amount of leave an employee can accrue and take is set by state law. In the absence of an extension of the federal law **requiring** the leave, state law would need to be amended to allow agencies to offer this leave beyond Dec. 31, 2020. **In addition, individual agencies do not have the legal authority to grant additional leave beyond what is allowed for in state law.**

There also appears to be some confusion regarding the answer to the following question, which has been answered in previous communications: **“What leave options are available to employees who are not able to report to work or work from home because their child’s school or place of care is closed, or the child care provider is unavailable due to a public health emergency?”** As agencies were advised in previous communications, employees may use sick leave if available for this situation. Employees may also use annual leave, compensatory time or holiday compensatory time subject to approval by the agency for these absences. If the employee does not have available leave, the agency may allow the employee to take leave without pay.

If you have any questions, please contact your HR Consultant (803-896-5300).

